



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0517/P4

RPN&RLR:cjs&wj:pg

TODAY 10:00 AM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

slays

2007 BILL

Regen Cat

1 AN ACT *to repeal* 20.465 (4) (b), 20.465 (4) (g), 20.465 (4) (k), chapter 21 (title),
2 21.025 (2) (b), 21.025 (5) (c), 21.025 (7), 21.025 (13), 21.15 (title), 21.155 (title),
3 21.19 (title), 21.19 (3) (b), 21.19 (6), 21.19 (7) (a) (intro.), 21.20, 21.21, 21.25,
4 21.26 (title), 21.32 (title), 21.33 (title), 21.36 (title), 21.37, 21.42, 21.49 (1) (ae),
5 21.50 (3) and (4), 21.56 (title), 21.57 (title), 21.59, 21.60, 21.61 (title), 21.612,
6 21.616 (title), 21.62, 21.63, 21.70 (title), 21.75 (1) (a), 21.75 (1) (c), 21.78 (5),
7 21.80 (1) (f) and 21.80 (8); *to renumber* 21.015 (1), 21.025 (title), 21.025 (2)
8 (title), 21.025 (5) (title), 21.025 (11m) (title), 21.13 (title), 21.18 (title) and (1)
9 (intro.), 21.18 (1) (a) to (c), 21.18 (1) (k), 21.18 (4), 21.26 (2) (b), 21.28 (title), 21.49
10 (title) and (1) (intro.), 21.49 (1) (am) and (ar), 21.49 (1) (b) (intro.), 21.49 (1) (b)
11 1., 1g. and 1m., 21.49 (1) (b) 3., 21.49 (2) (intro.), (a), (b) and (e), 21.50 (title),
12 21.51, 21.74 (8), 21.75 (1) (intro.), 21.75 (4), 21.75 (17), 21.75 (19), 21.80 (title)
13 and (1) (intro.), 21.80 (1) (b) to (e), 21.80 (1) (g) and 21.80 (7); *to renumber and*
14 *amend* 21.01, 21.015 (title), 21.015 (intro.), 21.015 (2), 21.025 (1), (2) (a), (c) and
15 (d), (3), (4), (6), (8), (9), (10) and (11n), 21.025 (5) (a) and (b), 21.03, 21.04, 21.05,

21.06, 21.07, 21.09, 21.11 (title), 21.11 (1), 21.11 (2), 21.11 (3), 21.12, 21.13 (1),
21.13 (2), 21.15, 21.155, 21.17, 21.18 (1) (d), 21.18 (1) (e), (f), (g), (h), (i) and (j),
21.18 (1m), 21.18 (2), 21.18 (3), 21.18 (5), 21.19 (1), 21.19 (1m), 21.19 (2), 21.19
(3) (a), 21.19 (4), 21.19 (5), 21.19 (7) (a) 1., 21.19 (7) (a) 2., 21.19 (7) (a) 3., 21.19
(7) (b), 21.19 (8), 21.19 (9), 21.19 (10), 21.19 (11), 21.19 (12), 21.19 (13), 21.19
(14), 21.26 (2) (a), 21.28 (1), (2) and (3), 21.30 (title), 21.30, 21.32, 21.33, 21.35,
21.36 (1), 21.36 (2), 21.38, 21.43, 21.47, 21.48, 21.49 (1) (b) 2., 21.49 (1) (c), 21.49
(2) (d), 21.49 (2) (f), 21.49 (2m), 21.49 (3), 21.49 (3m) and (4), 21.50 (1) and (2),
21.52, 21.54, 21.56 (1) and (2), 21.57 (1) and (2), 21.61 (1), (3), (4) and (5), 21.616,
21.70 (1) and (2), 21.72, 21.74 (title), 21.74 (1), 21.74 (2), (3), (4), (5), (6) and (7),
21.74 (9), 21.75 (title), 21.75 (1) (b), (cm) and (d), 21.75 (2), 21.75 (3), 21.75 (5),
21.75 (6) and (7), 21.75 (8), 21.75 (9) and (10), 21.75 (11), 21.75 (12), 21.75 (13),
21.75 (14), 21.75 (15), 21.75 (16), 21.75 (18), 21.75 (20), 21.75 (21), 21.75 (22),
21.75 (23), 21.78 (title), (1), (2), (3) and (4), 21.79, 21.80 (1) (a), 21.80 (2), 21.80
(3), 21.80 (4), 21.80 (5) and 21.80 (6); **to consolidate, renumber and amend**
21.025 (11m) (a) and (b) and 21.26 (1) and (2) (intro.); **to amend** 15.04 (2), 17.29,
20.455 (1) (b), 20.465 (1) (e), 20.465 (1) (g), 20.465 (1) (i), 20.465 (2) (a), 20.465
(4) (ka), 20.865 (1) (a), 20.865 (1) (g), 20.865 (1) (q), 40.05 (4g) (a) 4., 45.03 (13)
(e), 45.20 (2) (d) 3., 45.60 (1) (b), 71.93 (1) (a) 6., 106.54 (7), 121.05 (1) (a) 13.,
121.095 (title), 121.095 (1) (a), 121.095 (1) (b) 1., 121.90 (1) (intro.), 230.04 (17),
230.315 (1) (c) and 230.32 (7); **to create** 302.31 (1m), chapter 321 (title),
subchapter I (title) of chapter 321 [precedes 321.01], 321.01, 321.02 (title),
321.04 (title) and (1) (intro.), 321.04 (1) (b), 321.04 (1) (j), 321.04 (1) (m), 321.04
(1) (p), 321.04 (2) (intro.), 321.04 (2) (f), subchapter II (title) of chapter 321
[precedes 321.10], 321.10 (1) (e), subchapter III (title) of chapter 321 [precedes

1 321.20], 321.21 (1), 321.23 (title), subchapter IV (title) of chapter 321 [precedes
2 321.30], 321.39 (1) (a) (intro.), 321.39 (1) (a) 3., 321.40 (2) (f), 321.40 (6) (d),
3 321.51 (2) (b), 321.51 (2) (e) and subchapter V (title) of chapter 321 [precedes
4 321.60] of the statutes; and **to affect** Laws of 1969, chapter 20, section 10;
5 **relating to:** powers and duties of the Department of Military Affairs, the
6 adjutant general, military officers, military property and assets, the national
7 guard, the state defense force, rights of service personnel, the Wisconsin code
8 of military justice, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's special committee on recodification of ch. 21, military affairs. The special committee was directed to conduct a recodification of ch. 21, relating to military affairs, to include reorganizing the chapter in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, making other necessary organizational changes, and making minor substantive changes.

Military Affairs

The bill does the following regarding military affairs provisions:

1. Moves the military affairs provisions of the statutes that are currently in ch. 21 to a newly created ch. 321.
2. Reorganizes the entire chapter by subdividing it into the 5 subchapters shown in the table of contents set forth below. The current ch. 21 consists of 54 sections that are not organized into subchapters.
3. Makes nonsubstantive editorial changes to modernize language to make the language consistent with current drafting style.
4. Repeals several provisions considered no longer necessary. For example, one section in current ch. 21 relates to the Badger Challenge program, a program that no longer exists. As another example, a section is being repealed that allows the governor to prescribe rules for issuing of property to bands.
5. Makes minor substantive changes. These include the following:
 - a. Modifying the current provision on legal defense of national guard and state defense force members for actions taken in the line of duty. Currently, legal counsel is appointed for state residents who are members of the state defense force or who are

members of the national guard of any state. This bill also includes members of the Wisconsin national guard or Wisconsin state defense force who are not residents of Wisconsin.

b. Raising the dollar amount of rent of premises from which specified family members of a person may not be evicted while the person is in active state service, unless there is a court order. Under current law, the spouse, children, or others dependents of a service member who is in active state service may not be evicted from premises for which the rent does not exceed \$1,200 per month, unless there is a court order. The bill increases this amount to \$2,400 per month.

c. Increasing the amount of time for which a local governmental unit may grant a leave of absence to an employee for federal active duty from 4 years to 5 years.

d. Adding to the military staff of the governor a joint chief of staff with a specified rank.

Chapter 321, Department of Military Affairs, will be organized as follows:

Subchapter I General Provisions

- 321.01 Definitions.
- 321.02 Powers and duties of the governor.
- 321.03 Powers and duties of the department.
- 321.04 Powers and duties of the adjutant general.
- 321.05 Permission to forces of other states.

Subchapter II Military Officers

- 321.10 Military staff of the governor.
- 321.11 United States property and fiscal officer.
- 321.12 Chief surgeons.
- 321.13 Discharge of officers.
- 321.14 Authority to administer oaths.
- 321.15 Resignation of officer.

Subchapter III Military Property

- 321.20 Distribution of military property.
- 321.21 Military property accountability.
- 321.22 Camp Williams.
- 321.23 Facilities and lands.
- 321.24 Encroachment on military areas and interference with military personnel.

Subchapter IV National Guard and State Defense Force

- 321.30 Composition of national guard.
- 321.31 Uniform of national guard.
- 321.32 Term of enlistment and discharge.
- 321.33 Commission and rank.

- 321.34 Examinations for promotion or appointments.
- 321.35 Pay.
- 321.36 Rules of discipline.
- 321.37 No discrimination.
- 321.38 Decorations and awards.
- 321.39 Call to state active duty.
- 321.40 Educational benefits.
- 321.41 Training; special schools; pay and allowances.
- 321.42 Defense of members of guard; payment of judgments.
- 321.43 Exemption from civil authority.
- 321.44 Exemptions from certain county duties.
- 321.51 State defense force authorized.

Subchapter V

Rights of Service Members

- 321.60 Extension of licenses for service members.
- 321.61 Service members civil relief for property taxes and mobile telephone contracts; federal active duty.
- 321.62 Service members civil relief; state active duty.
- 321.63 Local government employees or officers in federal active duty.
- 321.64 Reemployment after completion of federal active duty.
- 321.65 Reemployment rights after national guard, state defense force, or public health emergency service.

Wisconsin Code of Military Justice

When the ~~drafting subcommittee of the~~ Joint Legislative Council's Special Committee on Recodification of ch. 21, Military Affairs was convened to undertake the ch. 21 recodification, the Department of Military Affairs (DMA) requested that the ~~subcommittee~~ also review proposed legislation to revise the current Wisconsin Code of Military Justice (WCMJ) which was being drafted by a working group led by the staff judge advocate general (JAG) at DMA. This part of the bill is based on that proposed legislation, with modifications ~~suggested by the drafting subcommittee~~ to comport with legislative drafting conventions and clarify the relationship of the WCMJ to other provisions of state law. The bill places the WCMJ in newly created ch. 322, stats. To the greatest extent possible, the bill retains the structure and language of the Uniform Code of Military Justice on which the revised WCMJ is based, including use of parallel article numbers, for easy transition from one code to the other.

The current WCMJ was enacted in ch. 20, Laws of 1969. That legislation also created as s. 21.37, stats., which provides that the WCMJ shall govern the conduct of all members of the national guard and any other military force organized under state law, but that the revisor of statutes shall not print the code in the statutes. Over time, there was concern that JAGs and others who utilized the code did not have ready access to a written version of the code. According to DMA, many key provisions of the current WCMJ are outdated and limit a commander's ability to adequately discipline those under his or her command. Also, DMA expects that the increased activity of the Wisconsin National Guard over the past few years, both within and outside the U.S., will result in a corresponding increase in disciplinary and other military justice matters.

Under this bill, if an act or omission that is a nonmilitary offense violates both the WCMJ and the criminal law, a civilian court has primary jurisdiction. In that case, a court-martial may be initiated only if civilian authorities decline to prosecute or dismiss charges, if jeopardy has not attached. Courts-martial have primary jurisdiction over military offenses, as defined in the WCMJ.

The bill reorganizes and modernizes the current WCMJ and makes a number of substantive changes. As examples of the substantive changes, the bill:

1. Updates definitions of terms such as "state military forces," "judge advocate," and "commanding officer" and creates definitions of a number of terms including "record," "military offenses," "enemy," and "unit training assembly."

2. Specifies a number of state criminal code chapters that do not apply to proceedings under the WCMJ.

3. Clarifies that the WCMJ applies to members of the state military forces if they are in a duty status or a nexus exists to the military.

4. Prohibits confinement of state military personnel with enemy prisoners or other foreign nationals who are not members of the armed forces.

5. Eliminates current amounts for forfeiture of pay in nonjudicial punishment cases and instead bases forfeitures on the accused's pay grade at the time of the offense.

6. Suspends the running of any statute of limitations until two years after termination of hostilities under certain circumstances in court-martial cases when the U.S. is in a declared war that is part of the global war on terror.

7. Establishes an affirmative defense of mental disease or defect in a court-martial trial, parallel to the defense available under state law, and specifies procedures, including those required of the state Department of Health and Family Services, for committing a person for examination and treatment who is found incompetent to stand trial due to lack of mental capacity.

8. Reduces the number of votes necessary to convict a person in a court-martial from unanimous to two-thirds in most cases.

9. Provides that appeals of court-martial decisions are to the Wisconsin Court of Appeals, District IV, and if necessary, to the Wisconsin Supreme Court, following procedures under ch. 809. stats.

10. Expands the current offense of drunken or reckless driving of a vehicle to also include operation of an all-terrain vehicle, snowmobile, aircraft, or vessel.

11. Specifies several offenses subject to court-martial that the current WCMJ leaves to civilian courts, including such offenses as "rape and carnal knowledge," "forgery," "violations regarding controlled substances," and "housebreaking." The term "controlled substance" is defined by reference to a definition in current criminal statutes.

Chapter 322, Wisconsin Code of Military Justice, will be organized as follows:

Subchapter I General Provisions

- 322.0001 Criminal code interaction
- 322.001 Article 1 Definitions
- 322.002 Article 2 Persons subject to this code; jurisdiction
- 322.003 Article 3 Jurisdiction to try certain personnel
- 322.005 Article 5 Territorial applicability of the code
- 322.006 Article 6 Judge advocates

Subchapter II Apprehension and Restraint

- 322.007 Article 7 Apprehension
- 322.009 Article 9 Imposition of restraint

322.010 Article 10	Restraint of persons charged with offenses
322.011 Article 11	Place of confinement; reports and receiving of prisoners
322.012 Article 12	Confinement with enemy prisoners prohibited
322.013 Article 13	Punishment prohibited before trial
322.014 Article 14	Delivery of offenders to civil authorities

Subchapter III
Nonjudicial Punishment

322.015 Article 15	Commanding officer's nonjudicial punishment
-----------------------	---

Subchapter IV
Court-Martial Jurisdiction

322.016 Article 16	Courts-martial classified
322.017 Article 17	Jurisdiction of courts-martial in general
322.018 Article 18	Jurisdiction of general courts-martial
322.019 Article 19	Jurisdiction of special courts-martial
322.020 Article 20	Jurisdiction of summary courts-martial

Subchapter V
Appointment and Composition of Courts-Martial

322.022 Article 22	Who may convene general courts-martial
322.023 Article 23	Who may convene special courts-martial
322.024 Article 24	Who may convene summary courts-martial
322.025 Article 25	Who may serve as a member on courts-martial
322.026 Article 26	Military judge of a general or special court-martial
322.027 Article 27	Detail of trial counsel and defense counsel
322.028 Article 28	Detail or employment of reporters and interpreters

322.029 Article Absent and additional members
29

**Subchapter VI
Pretrial Procedure**

322.030 Article Charges and specifications
30

322.031 Article Compulsory self-incrimination prohibited
31

322.032 Article Investigation
32

322.033 Article Forwarding of charges
33

322.034 Article Advice of judge advocate and reference for trial
34

322.035 Article Service of charges
35

**Subchapter VII
Trial Procedure**

322.036 Article Governor may prescribe regulations
36

322.037 Article Unlawfully influencing action of court
37

322.038 Article Duties of trial counsel and defense counsel
38

322.039 Article Sessions
39

322.040 Article Continuances
40

322.041 Article Challenges
41

322.042 Article Oaths or affirmations
42

322.043 Article Statute of limitations
43

322.044 Article Former jeopardy
44

322.045 Article Pleas of the accused
45

322.046 Article Opportunity to obtain witnesses and other evidence
46

322.047 Article Refusal to appear or testify
47

322.048 Article Contempt
48

322.049 Article Depositions
49

322.050 Article Admissibility of records of courts of inquiry
50

322.0505 Article Defense of mental disease or defect
50a

322.051 Article Voting and rulings
51

322.052 Article Number of votes required
52

322.053 Article Court to announce action
53

322.054 Article Record of trial
54

Subchapter VIII Sentences

322.055 Article Cruel and unusual punishments prohibited
55

322.056 Article Maximum limits
56

322.057 Article Effective date of sentences
57

322.0575 Article Deferment of sentences
57a

322.058 Article Conditions of confinement
58

322.0585 Article Sentences: reduction in enlisted grade upon approval
58a

322.0587 Article Sentences: forfeiture of pay and allowances during con-
58b finement

Subchapter IX Post-Trial Procedure and Review of Courts-Martial

322.059 Article Error of law; lesser included offense
59

322.060 Article Action by the convening authority
60

322.061 Article Withdrawal of appeal
61

322.062 Article Appeal by the state
62

322.063 Article 63	Rehearings
322.064 Article 64	Review by the senior force judge advocate
322.065 Article 65	Disposition of records after review by the convening authority
322.0675 Article 67a	Review by state appellate authority
322.070 Article 70	Appellate counsel
322.071 Article 71	Execution of sentence; suspension of sentence
322.072 Article 72	Vacation of suspension
322.073 Article 73	Petition for a new trial
322.074 Article 74	Remission and suspension
322.075 Article 75	Restoration
322.076 Article 76	Finality of proceedings, findings, and sentences
322.0763 Article 76a	Leave required to be taken pending review of certain court-martial convictions
322.0767 Article 76b	Competency; commitment for examination and treatment
	Subchapter X
	Punitive Articles
322.077 Article 77	Principals
322.078 Article 78	Accessory after the fact
322.079 Article 79	Conviction of lesser included offense
322.080 Article 80	Attempts
322.081 Article 81	Conspiracy
322.082 Article 82	Solicitation
322.083 Article 83	Fraudulent enlistment, appointment, or separation

322.084 Article 84	Unlawful enlistment, appointment, or separation
322.085 Article 85	Desertion
322.086 Article 86	Absence without leave
322.087 Article 87	Missing movement
322.088 Article 88	Contempt toward officials
322.089 Article 89	Disrespect toward superior commissioned officer
322.090 Article 90	Assaulting or willfully disobeying superior commissioned officer
322.091 Article 91	Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer
322.092 Article 92	Failure to obey order or regulation
322.093 Article 93	Cruelty and maltreatment
322.094 Article 94	Mutiny or sedition
322.095 Article 95	Resistance, flight, breach of arrest, and escape
322.096 Article 96	Releasing prisoner without proper authority
322.097 Article 97	Unlawful detention
322.098 Article 98	Noncompliance with procedural rules
322.099 Article 99	Misbehavior before the enemy
322.100 Article 100	Subordinate compelling surrender
322.101 Article 101	Improper use of countersign
322.102 Article 102	Forcing a safeguard
322.103 Article 103	Captured or abandoned property
322.104 Article 104	Aiding the enemy

322.105 Article 105	Misconduct as prisoner
322.107 Article 107	False official statements
322.108 Article 108	Military property—Loss, damage, destruction, or wrongful disposition
322.109 Article 109	Property other than military property—Waste, spoilage, or destruction
322.110 Article 110	Improper hazarding of vessel
322.111 Article 111	Drunken or reckless operation of an all-terrain vehicle, vehicle, snowmobile, aircraft, or vessel
322.112 Article 112	Drunk on duty
322.1125 Article 112a	Violations regarding controlled substances
322.113 Article 113	Misbehavior of sentinel
322.114 Article 114	Dueling
322.115 Article 115	Malingering
322.116 Article 116	Riot or breach of peace
322.117 Article 117	Provoking speeches or gestures
322.120 Article 120	Rape and carnal knowledge
322.121 Article 121	Larceny and wrongful appropriation
322.122 Article 120	Robbery
322.123 Article 123	Forgery
322.1235 Article 123a	Making, drawing, or uttering check, draft, or order without sufficient funds
322.124 Article 124	Maiming
322.126 Article 126	Arson
322.127 Article 127	Extortion

322.128 Article 128	Assault
322.129 Article 129	Burglary
322.130 Article 130	Housebreaking
322.131 Article 131	Perjury
322.132 Article 132	Frauds against the government
322.133 Article 133	Conduct unbecoming an officer and a gentleman
322.134 Article 134	General section
	Subchapter XI
	Miscellaneous Provisions
322.135 Article 135	Courts of inquiry
322.136 Article 136	Authority to administer oaths and to act as notary
322.137 Article 137	Articles to be available
322.138 Article 138	Complaints of wrongs
322.139 Article 139	Redress of injuries to property
322.140 Article 140	Delegation by the governor
322.141 Article 141	Payment of fees, costs, and expenses
322.142 Article 142	Payment of fines and disposition
322.143 Article 143	Uniformity of interpretation
322.144 Article 144	Immunity for action of military courts

- 1 **SECTION 1.** 15.04 (2) of the statutes is amended to read:
- 2 15.04 (2) **DEPUTY.** Each secretary of a department or head of an independent
- 3 agency under s. 230.08 (2) (L) may appoint a deputy who shall serve at the pleasure
- 4 of the secretary or agency head outside the classified service. The deputy shall

1 exercise the powers, duties and functions of the secretary or head in the absence of
2 the secretary or head, and shall perform such other duties as the secretary or head
3 prescribes. The adjutant general may appoint 2 deputies as ~~provided~~ described in
4 s. ~~21.18 (1)~~ 321.10 (1) (b) and (c). In this subsection "secretary" includes the attorney
5 general and the state superintendent of public instruction.

6 **SECTION 2.** 17.29 of the statutes is amended to read:

7 **17.29 Effect of chapter.** The provisions of this chapter supersede all contrary
8 provisions in either the general law or in special acts, except ss. 6.26 (2) (b), 6.28 (2)
9 (b), 6.55 (6), 6.875, and 7.30 relating to appointed election officials and ~~ch. 21~~ ch. 321
10 relating to the military staff of the governor and to officers of the Wisconsin national
11 guard or state defense force; and shall govern all offices whether created by general
12 law or special act, unless otherwise specially provided.

13 **SECTION 3.** 20.455 (1) (b) of the statutes is amended to read:

14 20.455 (1) (b) *Special counsel.* A sum sufficient, subject to the procedure
15 established in s. 14.11 (2) (c), for the compensation of special counsel appointed as
16 provided in ss. 14.11 (2) and ~~21.13~~ 321.42.

17 **SECTION 4.** 20.465 (1) (e) of the statutes is amended to read:

18 20.465 (1) (e) *State service flags.* The amounts in the schedule for the purchase
19 of state service flags pursuant to s. ~~21.19 (10)~~ 321.04 (2) (d).

20 **SECTION 5.** 20.465 (1) (g) of the statutes is amended to read:

21 20.465 (1) (g) *Military property.* The amounts in the schedule for rent of
22 state-owned military lands or buildings used by, acquired for or erected for the
23 Wisconsin national guard under s. ~~21.19 (2)~~ 321.03 (2) (a), for rental of buildings and
24 grounds maintenance equipment owned by the state and required to properly
25 maintain properties supported by state-federal cooperative funding agreements, for

1 the repair and maintenance of state-owned military lands or buildings, for the
2 payment of municipal assessments related to state-owned military property and for
3 the purchase and construction of new military property, real and personal. All
4 moneys received on account of lost military property, from the sale of obsolete or
5 unserviceable military property, from the sale of any state-owned military property,
6 real and personal, under s. ~~21.19 (3)~~ 321.03 (2) (b), from the rental of state-owned
7 housing, or from the provision of housing-related services to military personnel shall
8 be credited to this appropriation.

9 **SECTION 6.** 20.465 (1) (i) of the statutes is amended to read:

10 20.465 (1) (i) *Distance learning centers.* All moneys received from renting the
11 distance learning centers, for the operation and maintenance of the centers under
12 s. ~~21.19 (13)~~ 321.04 (1) (n).

13 **SECTION 7.** 20.465 (2) (a) of the statutes is amended to read:

14 20.465 (2) (a) *Tuition grants.* A sum sufficient for the payment of tuition grants
15 to members of the Wisconsin national guard under s. ~~21.49 (3)~~ 321.40 (4).

16 **SECTION 8.** 20.465 (4) (b) of the statutes is repealed.

17 **SECTION 9.** 20.465 (4) (g) of the statutes is repealed.

18 **SECTION 10.** 20.465 (4) (k) of the statutes is repealed.

19 **SECTION 11.** 20.465 (4) (ka) of the statutes is amended to read:

20 20.465 (4) (ka) ~~Youth Challenge~~ Academy program; public instruction funds.
21 All moneys received from the department of public instruction under s. 121.095, for
22 the operation of the ~~Youth Challenge~~ Academy program under s. ~~21.26~~ 321.03 (1) (c).

23 **SECTION 12.** 20.865 (1) (a) of the statutes is amended to read:

24 20.865 (1) (a) *Judgments and legal expenses.* A sum sufficient to pay for legal
25 expenses under s. 59.32 (3), for costs under ss. 227.485 and 814.245 and for the costs

1 of judgments, orders and settlements of actions, appeals and complaints under
2 subch. II of ch. 111 or subch. II or III of ch. 230, and those judgments, awards, orders
3 and settlements under ss. ~~21.13~~, 165.25 (6), 321.42, 775.04 and 895.46 that are not
4 otherwise reimbursable as liability costs under par. (fm). Release of moneys under
5 this paragraph pursuant to any settlement agreement, whether or not incorporated
6 into an order, is subject to approval of the attorney general.

7 **SECTION 13.** 20.865 (1) (g) of the statutes is amended to read:

8 20.865 (1) (g) *Judgments and legal expenses; program revenues.* From the
9 appropriate program revenue and program revenue-service accounts, a sum
10 sufficient to pay for legal expenses under s. 59.32 (3), for costs under ss. 227.485 and
11 814.245 and for the cost of judgments, orders and settlements of actions, appeals and
12 complaints under subch. II of ch. 111 or subch. II or III of ch. 230, and those
13 judgments, awards, orders and settlements under ss. ~~21.13~~, 165.25 (6), 321.42,
14 775.04 and 895.46 that are not otherwise reimbursable as liability costs under par.
15 (fm). Release of moneys under this paragraph pursuant to any settlement
16 agreement, whether or not incorporated into an order, is subject to approval of the
17 attorney general.

18 **SECTION 14.** 20.865 (1) (q) of the statutes is amended to read:

19 20.865 (1) (q) *Judgments and legal expenses; segregated revenues.* From the
20 appropriate segregated funds, a sum sufficient to pay for legal expenses under s.
21 59.32 (3), for costs under ss. 227.485 and 814.245 and for the cost of judgments,
22 orders and settlements of actions, appeals and complaints under subch. II of ch. 111
23 or subch. II or III of ch. 230, and those judgments, awards, orders and settlements
24 under ss. ~~21.13~~, 165.25 (6), 321.42, 775.04 and 895.46 that are not otherwise
25 reimbursable as liability costs under par. (fm). Release of moneys under this

1 paragraph pursuant to any settlement agreement, whether or not incorporated into
2 an order, is subject to approval of the attorney general.

3 **SECTION 15.** Chapter 21 (title) of the statutes is repealed.

4 **SECTION 16.** 21.01 of the statutes is renumbered 321.30 and amended to read:

5 **321.30 Composition of national guard.** (1) The organized militia of this
6 state shall be known as the "Wisconsin national guard" and shall consist of members
7 ~~appointed~~ commissioned or enlisted ~~therein~~ in accordance with federal law or
8 regulations governing ~~or pertaining to~~ the national guard.

9 (2) The Wisconsin national guard shall ~~be organized into~~ consist of the army
10 national guard and the air national guard units, and ~~"national guard" when used in~~
11 ~~this chapter, unless the context otherwise requires, means both the Wisconsin army~~
12 ~~national guard and the Wisconsin air national guard.~~

13 **SECTION 17.** 21.015 (title) of the statutes is renumbered 321.03 (title) and
14 amended to read:

15 **321.03 (title) Department Powers and duties of the department.**

16 **SECTION 18.** 21.015 (intro.) of the statutes is renumbered 321.03 (1) (intro.) and
17 amended to read:

18 321.03 (1) (intro.) The department of ~~military affairs~~ shall do all of the
19 following:

20 **SECTION 19.** 21.015 (1) of the statutes is renumbered 321.03 (1) (a).

21 **SECTION 20.** 21.015 (2) of the statutes is renumbered 321.03 (1) (b) and
22 amended to read:

23 321.03 (1) (b) Provide facilities and support for the national guard ~~and any~~
24 ~~other support available from the appropriations under s. 20.465.~~

25 **SECTION 21.** 21.025 (title) of the statutes is renumbered 321.51 (title).

1 **SECTION 22.** 21.025 (1), (2) (a), (c) and (d), (3), (4), (6), (8), (9), (10) and (11n) of
2 the statutes are renumbered 321.51 (1), (2) (a), (c) and (d), (3), (4), (5), (6), (7), (8) and
3 (10) and amended to read:

4 321.51 (1) **AUTHORITY AND NAME.** The adjutant general may establish a plan for
5 organizing a military force to be known as the ~~Wisconsin state defense force.~~ “state
6 defense force.” The ~~governor, or~~ adjutant general if designated by the governor, may
7 organize the ~~Wisconsin state defense force under the plan, which may include an~~
8 aviation unit, if all or part of the national guard is called into the service of the United
9 States. ~~It federal active duty.~~ The state defense force shall be a uniformed force
10 distinct from the national guard, ~~uniformed, and composed of officers, commissioned~~
11 or assigned, officers and of enlisted personnel who volunteer for service.
12 ~~Membership in the Wisconsin state defense force may not include any A person who~~
13 is on active duty in the active military U.S. armed forces, including the active reserve
14 components, may not serve in the state defense force. ~~Persons A person in the retired~~
15 or inactive reserve may serve in the Wisconsin state defense force.

16 (2) (a) The governor or adjutant general, if designated by the governor, may
17 prescribe ~~rules and regulations not inconsistent, instructions, and policies~~
18 consistent with this section governing the enlistment, organization, administration,
19 equipment, uniforms, maintenance, training, and discipline of such ~~forces, except~~
20 ~~that such rules and regulations, insofar as the state defense force. The regulations,~~
21 instructions, and policies, to the extent the governor deems practicable and desirable
22 considers necessary, shall conform to existing law governing ~~and pertaining to the~~
23 national guard ~~and the rules and regulations promulgated thereunder and.~~ The
24 regulations, instructions, and policies shall prohibit the acceptance of a member of
25 the state defense force from accepting any gifts, donations, gratuities, or anything

1 other things of value by such forces or by any member of such forces from any person
2 by reason of such membership given to the member because he or she is a member
3 of the state defense force other than wages and benefits paid by the state.

4 (c) Officers and enlistees, while on state active duty ~~under orders of the~~
5 ~~governor, in the state defense force~~ shall receive the base pay and allowances of the
6 identical grade in the ~~United States~~ U.S. army.

7 (d) The adjutant general may organize a ~~cadre force~~ recruitment and training
8 unit of not more than 12 ~~personnel~~ persons at each ~~state-owned~~ state armory. ~~Each~~
9 ~~cadre force shall~~ The unit shall establish recruitment lists of persons interested in
10 becoming members of the state defense force, ~~which may be used to recruit full units~~
11 ~~for the state defense force in case the national guard is mobilized for active federal~~
12 ~~duty, and train the persons recruited.~~

13 (3) REQUISITIONS; ARMORIES; OTHER BUILDINGS. ~~For the use of such forces, the~~ The
14 ~~governor or adjutant general, if designated by the governor, may requisition military~~
15 ~~property from the federal government such arms and equipment as may be available,~~
16 ~~and the~~ for the use of the state defense force. The governor or adjutant general, if
17 designated by the governor, may make available to the state defense force the
18 facilities of state armories and their equipment and such military property and other
19 state premises and property as may be available and may, through the, The
20 department of military affairs, may rent or lease buildings or parts of buildings and
21 grounds for armory purposes or continue in possession of such those premises leased
22 by the department of military affairs for the use of the national guard, paying rental
23 therefor out of funds appropriated rent from the appropriation under s. 20.465 (1) (a).
24 All leases ~~so made shall~~ made under this subsection terminate upon dissolution of
25 the ~~Wisconsin~~ state defense force regardless of the term provided ~~therein~~ in the lease,

1 unless the premises ~~shall be~~ are needed for national guard purposes, ~~in which case~~
2 ~~the.~~ The lease for the premises needed for the national guard may be assigned by
3 the department of ~~military affairs~~ to the national guard organization ~~intending that~~
4 intends to occupy the premises.

5 (4) ~~USE WITHOUT~~ OUTSIDE THIS STATE. ~~Such forces shall~~ The state defense force
6 may not be required to serve outside the boundaries of this state except unless one
7 of the following applies:

8 (a) Upon the request of the governor of another state, the governor of this state
9 ~~may order any portion or~~ orders all or part of such forces ~~the state defense force to~~
10 ~~assist the a military unit or police forces of such~~ law enforcement agency of the other
11 ~~state who are actually engaged in defending such other state. Such forces may be~~
12 ~~recalled by the.~~ The governor at the governor's discretion may recall the state
13 defense force from the other state at any time.

14 (b) Any organization, unit, or detachment of such forces, upon Upon order of
15 the officer in immediate command thereof, ~~may continue, the state defense force~~
16 continues in fresh pursuit of insurrectionists, saboteurs, ~~enemies~~ terrorists, or
17 enemy forces ~~beyond the borders of this state~~ into another state until they are
18 apprehended or captured by such organization, unit, or detachment or until the a
19 military unit or police forces law enforcement agency of the other state or the forces
20 of the United States have had a reasonable opportunity to take up the pursuit or to
21 ~~apprehend or capture such those persons, provided such.~~ Any pursuit under this
22 subsection may only take place if the other state shall have given gives authority by
23 law for such the pursuit by such forces of this state. Any such person who shall be
24 ~~apprehended or is~~ captured in such the other state by an organization, unit, or
25 ~~detachment of the forces of this~~ the state defense force shall without unnecessary

1 delay be surrendered to the a military unit or ~~police forces~~ law enforcement agency
2 of the state in which the person is ~~taken~~ captured or to the United States, ~~but such~~.
3 The surrender of the person captured shall not constitute a waiver by this state of
4 ~~its~~ the right to extradite or prosecute ~~such~~ the person for any crime committed in this
5 state.

6 (5) FEDERAL SERVICE ACTIVE DUTY. ~~Nothing in this section shall be construed as~~
7 ~~authorizing such forces, or any part thereof to be called, ordered, or in any manner~~
8 No unit of the state defense force may be drafted, as such, into the U.S. military
9 ~~service of the United States, but no.~~ No person shall by reason of enlistment or
10 ~~commission in any such forces~~ membership in the state defense force be exempted
11 from ~~military service under any law of the United States~~ federal active duty.

12 (6) DISQUALIFICATIONS. ~~No person shall be commissioned or enlisted in such~~
13 ~~forces who is not a citizen of the United States or who has been expelled or~~
14 ~~dishonorably discharged from any military or naval organization, of this state, or of~~
15 ~~another state, or of the United States~~ may be a member of the state defense force.

****NOTE: The drafting committee wanted to highlight this change for the special committee. Under current law, only U.S. citizens may serve in the state defense force. This bill eliminates that restriction.

16 (7) ~~OATH OF OFFICERS~~. The oath to be taken by officers ~~commissioned or enlistees~~
17 in ~~such forces~~ the state defense force shall be substantially in the form prescribed for
18 officers of the national guard. The oath shall be filed in the same manner as in the
19 national guard.

20 (8) ENLISTEES. No person shall may be enlisted in the state defense force for
21 more than one year, but such enlistment may be renewed. ~~The oath to be taken upon~~
22 ~~enlistment in such forces shall be substantially in the form prescribed for enlistees~~
23 ~~of the national guard~~.

1 (10) LABOR DISPUTES. The state defense force ~~shall~~ may not be used to interfere
2 with the orderly process of a labor dispute.

3 **SECTION 23.** 21.025 (2) (title) of the statutes is renumbered 321.51 (2) (title).

4 **SECTION 24.** 21.025 (2) (b) of the statutes is repealed.

5 **SECTION 25.** 21.025 (5) (title) of the statutes is renumbered 321.05 (title).

6 **SECTION 26.** 21.025 (5) (a) and (b) of the statutes are renumbered 321.05 (1) and
7 (2) and amended to read:

8 321.05 (1) Any military ~~forces or organization, unit, or detachment thereof, of~~
9 another state ~~who are~~ that is in fresh pursuit of insurrectionists, saboteurs, ~~enemies~~
10 ~~terrorists,~~ or enemy forces may continue such the pursuit into this state until the a
11 military unit or ~~police forces~~ law enforcement agency of this state or the ~~forces of the~~
12 United States have U.S. military has had a reasonable opportunity to take up the
13 pursuit or ~~to apprehend or capture such persons, and such~~ the persons. The military
14 ~~forces of such~~ unit of the other state may arrest or capture such those persons ~~within~~
15 in this state while in fresh pursuit.

16 (2) Any such person who shall be is captured or arrested by the military forces
17 ~~of such other~~ unit of another state while in this state shall without unnecessary delay
18 be surrendered to the a military unit or ~~police forces~~ law enforcement agency of this
19 state ~~to be dealt with according to law.~~

20 **SECTION 27.** 21.025 (5) (c) of the statutes is repealed.

21 **SECTION 28.** 21.025 (7) of the statutes is repealed.

22 **SECTION 29.** 21.025 (11m) (title) of the statutes is renumbered 321.51 (9) (title).

23 **SECTION 30.** 21.025 (11m) (a) and (b) of the statutes are consolidated,
24 renumbered 321.51 (9) and amended to read:

1 321.51 (9) Officers and enlistees of the “~~Wisconsin State Defense Force~~” state
2 defense force who have served honorably therein for a period of at least one year and
3 ~~are active members of their respective units at the time of its demobilization shall~~
4 may, upon application to the unit commander, be permitted to retain the items of
5 their uniform prescribed by the governor by rule. (b) ~~The.~~ If retained, the uniform
6 ~~prescribed under par. (a) may be worn only on occasions of ceremony.~~ “~~Occasions of~~
7 ~~ceremony~~” ~~means occasions~~ essentially of a military character at which the uniform
8 is more appropriate than civilian clothing, such as memorial services, military
9 weddings, military funerals, military balls, military parades, military reunions, and
10 meetings or functions of associations formed for military purposes, the membership
11 of which is composed largely or entirely of honorably discharged ~~veterans of the~~
12 services members of the U.S. military, national guard, and state defense force.

13 **SECTION 31.** 21.025 (13) of the statutes is repealed.

14 **SECTION 32.** 21.03 of the statutes is renumbered 321.20 and amended to read:

15 **321.20 Distribution of arms military property.** The governor may receive
16 and distribute, according to law, ~~the quota of arms and military equipment which~~
17 property that the state may receive receives from the U.S. government of the United
18 States under the provisions of any acts of congress federal laws providing for arming
19 and equipping of the national guard and the state defense force.

20 **SECTION 33.** 21.04 of the statutes is renumbered 321.22 and amended to read:

21 **321.22 Camp Williams.** (1) The state ~~camp grounds~~ facility near Camp
22 Douglas, Juneau County, shall be known as “Camp Williams”. The officer in charge
23 of Camp Williams ~~shall have at said camp the police powers possessed by officials at~~
24 ~~state hospitals, as provided in s. 46.058 (2)~~ may arrest a person for a violation that

1 occurs at Camp Williams of a state law, local ordinance, or provision of the Wisconsin
2 code of military justice.

3 (2) The adjutant general may grant to the federal government the right to use
4 any area of Camp Williams upon such conditions as that the adjutant general deems
5 advisable.

6 (3) In memory of 1st lieutenant Jerome A. Volk, the first Wisconsin air national
7 guard pilot killed in combat during the Korean conflict, so much of Camp Williams
8 as is under lease to the federal government for use of the air national guard shall be
9 known as "Volk Field" during the time the property remains under lease to the U.S.
10 government of the United States.

11 SECTION 34. 21.05 of the statutes is renumbered 321.32 and amended to read:

12 **321.32 Term of enlistment; requirements and discharge.** Every person
13 who enlists or receives a commission in the national guard shall serve for the term
14 prescribed and satisfy the physical, educational and training requirements
15 prescribed by the U.S. national guard bureau. Enlistees in the national guard shall
16 be discharged as provided in the laws and regulations of the U.S. national guard
17 bureau.

18 SECTION 35. 21.06 of the statutes is renumbered 321.44 and amended to read:

19 **321.44 Exemptions from certain county duties.** Every member of the
20 national guard or state military forces shall be defense force is exempt from service
21 on any body of county residents summoned by the sheriff to assist in preserving the
22 peace.

23 SECTION 36. 21.07 of the statutes is renumbered 321.38 and amended to read:

24 **321.38 Decorations and awards.** The adjutant general may prescribe
25 decorations and awards for the national guard and the state defense force, ~~the.~~ The

1 adjutant general shall adopt policies establishing the form and issue thereof made
2 under rules adopted by the adjutant general and approved by the governor issuance
3 of those decorations and awards.

4 SECTION 37. 21.09 of the statutes is renumbered 321.41 and amended to read:

5 **321.41 Training; special schools; pay and allowances.** The governor or
6 adjutant general may order the national guard or state defense force to assemble for
7 training at any military establishment ~~within or without the state specified and~~
8 ~~approved by the department of defense and fix the dates and places thereof, and the~~
9 ~~of that training.~~ The governor or adjutant general may order members of the
10 national guard or state defense force, at their option, to attend such special schools
11 for military training ~~as may be that are~~ authorized by the state or federal
12 ~~government. For such training and attendance at special schools, members~~ The
13 governor or adjutant general shall determine the amount that the members of the
14 national guard or state defense force shall receive such as pay and allowances as the
15 federal government or the governor may authorize for the training.

16 SECTION 38. 21.11 (title) of the statutes is renumbered 321.39 (title) and
17 amended to read:

18 **321.39 (title) Call to state active service duty.**

19 SECTION 39. 21.11 (1) of the statutes is renumbered 321.39 (1) (a) 1. and
20 amended to read:

21 321.39 (1) (a) 1. In case of war, insurrection, rebellion, riot, invasion, terrorism,
22 or resistance to the execution of the laws of this state or of the United States; ~~in,~~

23 2. In the event of public disaster resulting from flood, conflagration or fire,
24 tornado; ~~in,~~ or other natural disaster.

1 4. In order to assess damage or potential damage and to recommend responsive
2 action as a result of ~~natural or man-made events; or upon~~ an event listed in subds.
3 1. to 3.

4 5. Upon application of any marshal of the United States, the president of any
5 village, the mayor of any city, the chairperson of any town board, or any sheriff in this
6 state, ~~the governor may order into active service all or any portion of the national~~
7 guard.

8 (b) If the governor is absent, or cannot be immediately communicated with, any
9 ~~such civil officer of the persons listed in par. (a) 5. may, if the officer deems the~~
10 occasion so is urgent, ~~make such application, which shall be in writing, to request~~
11 assistance from the commanding officers of any company, battalion or regiment, who
12 ~~may upon~~ commander of any national guard unit. The commander shall obtain
13 approval of the adjutant general, ~~if the danger is great and imminent, order out that~~
14 ~~officer's command to the aid of such civil officer. Such~~ before ordering the unit to
15 provide assistance. If it is not feasible to obtain approval of the adjutant general, and
16 the danger is great and imminent, the commander may order the unit to provide
17 assistance without adjutant general approval. The order shall be delivered to the
18 ~~commanding officer, who shall immediately communicate the order to each, and~~
19 every subordinate officer, ~~and every company commander receiving the same who~~
20 shall immediately communicate the substance thereof ~~to each member of the order~~
21 to the members of the company, ~~or if any such unit. If a member cannot be found,~~
22 ~~a notice in writing containing the substance of such~~ the order, in writing, shall be left
23 at the last and usual member's place of residence ~~of such member~~ with some person
24 of suitable age and discretion, to whom its the order's contents shall be explained.

1 **SECTION 40.** 21.11 (2) of the statutes is renumbered 321.39 (2) (a) and amended
2 to read:

3 321.39 (2) (a) Any commissioned officer or enlisted member of the national
4 guard who fails to carry out orders or fails to appear at the time or place ordered as
5 provided in sub. (1) shall be punished under the Wisconsin code of military justice.

6 (b) Any person who ~~advises or endeavors to persuade an officer or soldier to~~
7 ~~refuse or neglect to appear at such place or obey such order~~ assists an officer or
8 member of the national guard in violating par. (a) shall ~~forfeit~~ be subject to a
9 forfeiture of not less than \$200 nor more than \$1,000.

10 **SECTION 41.** 21.11 (3) of the statutes is renumbered 321.04 (2) (e) and amended
11 to read:

12 321.04 (2) (e) ~~The adjutant general may activate~~ Activate members of the
13 national guard ~~for the purpose of serving to serve~~ on an honors detail of military
14 funeral honors for a person described under s. 45.60 (1).

15 **SECTION 42.** 21.12 of the statutes is renumbered 321.43 and amended to read:

16 **321.43 Exemption from civil authority.** During the time the national guard
17 ~~or state military forces are defense force is~~ performing military duty pursuant to
18 ~~proper~~ under orders issued by the governor or ~~by the governor's authority~~ adjutant
19 general, all of its members thereof, while going to, remaining at, or returning from
20 a place of duty ~~shall be~~ are exempt from arrest or service of any process issued by a
21 civilian court. In any civil or criminal prosecution against any member arising out
22 of the member's performing military duty, it shall be a defense that the member was
23 acting in good faith or ~~pursuant to any~~ under a lawful military order. ~~Any such~~ The
24 order shall be deemed ~~prima facie~~ considered lawful unless shown to be unlawful.

25 **SECTION 43.** 21.13 (title) of the statutes is renumbered 321.42 (title).

1 **SECTION 44.** 21.13 (1) of the statutes is renumbered 321.42 (1) (a) and amended
2 to read:

3 321.42 (1) (a) If any ~~state resident who is a member of a~~ the national guard
4 of any state or of the state defense force or any resident of this state who is a member
5 of the national guard of another state is prosecuted by any civil or criminal action for
6 any act performed by the member while in the performance of military duty and in
7 pursuance of military duty within the scope of his or her employment as a member,
8 the action against governor, upon request of the adjutant general, shall appoint
9 counsel to defend the member shall be defended by counsel, which may include the
10 attorney general, appointed for that purpose by the governor upon the
11 recommendation of the adjutant general. The adjutant general shall make the
12 recommendation request to appoint defense counsel if the act performed by the
13 member was in the line of duty. The governor may appoint the attorney general to
14 defend the member.

****NOTE: The drafting committee wanted to highlight for the special committee the change regarding legal defense of National Guard and State Defense Force members for actions taken in the line of duty. The current provision applies to state residents who are members of the National Guard of any state or of the Wisconsin State Defense Force. This draft also includes persons who are members of the Wisconsin National Guard or the Wisconsin State Defense Force who are not residents of Wisconsin."

15 **(b)** The costs and expenses of ~~any such~~ the defense under par. (a) shall be
16 audited by the department of administration and ~~paid out of the state treasury and~~
17 charged to the appropriation under s. 20.455 (1) (b) ~~and if.~~ If the jury or court finds
18 that the member of the national guard against whom the action is brought acted
19 within the scope of his or her employment as a member, the judgment as to damages
20 entered against the member shall also be paid by the state.

21 **SECTION 45.** 21.13 (2) of the statutes is renumbered 321.42 (2) and amended
22 to read:

1 321.42 (2) Any civil action or proceeding brought against a member of a
2 national guard or the state defense force under sub. (1) (a) is subject to ss. 893.82 and
3 895.46.

4 **SECTION 46.** 21.15 (title) of the statutes is repealed.

5 **SECTION 47.** 21.15 of the statutes is renumbered 321.21 (5) (a) and amended
6 to read:

7 321.21 (5) (a) No person may retain at any time any arms, equipment or
8 military stores of any kind belonging to the state or any federally owned property
9 issued to the state property or money, unless the property or money has been lawfully
10 issued to the person pursuant to law and the proper authority permits the person to
11 retain the property or money in the discharge of a public duty. No person may use
12 any public arms, equipment, clothing or military stores belonging to the state, either
13 as owner or bailee, property or money for the person's unauthorized private use. Any
14 person violating this section paragraph shall forfeit not less than \$50^{\$100} nor more than

15 \$200^{\$600}.

****NOTE: The drafting subcommittee wanted to highlight for the special committee's attention the level of penalties both in this provision and in current s. 21.155. Those penalty levels were established in 1980. Chapter 221, laws of 1979 (the 1980 Budget Review Act), changed the penalties for violating s. 21.15 from a fine of not more than \$200 to the current language. In addition, chapter 221 also changed the penalty for violating s. 21.115 from imprisonment for not more than 6 months or a fine of not more than \$100 to the current language.

16 **SECTION 48.** 21.155 (title) of the statutes is repealed.

17 **SECTION 49.** 21.155 of the statutes is renumbered 321.21 (5) (b) and amended
18 to read:

19 321.21 (5) (b) No A person who possesses under the laws of this state any arms,
20 equipment or other military property may willfully neglect or refuse or money, after
21 the adjutant general makes lawful demand is made for the return of the property by

1 ~~order of the governor, to or money shall~~ return the property or money promptly. No
2 person may knowingly resist any officer who is lawfully taking possession of such
3 ~~arms, equipment or other~~ the military property or money. Any person violating this
4 ~~section paragraph~~ shall forfeit not less than ~~\$50~~ ^{\$100} nor more than ~~\$200~~ ^{\$1000}.

5 **SECTION 50.** 21.17 of the statutes is renumbered 321.24, and 321.24 (1) and (2),
6 as renumbered, are amended to read:

7 321.24 (1) The officer in charge of any area used or to be used for military
8 purposes may ~~cause the area to be marked in such a manner so as~~ mark the area to
9 warn against encroachment by unauthorized persons, but may not ~~to~~ unnecessarily
10 obstruct travel on any public highway. No person may encroach upon or enter ~~upon~~
11 the area without the consent of the officer.

12 (2) No person may ~~intercept, molest, abuse or otherwise~~ interfere with any
13 member of the national guard or ~~any other military force organized under the laws~~
14 ~~of this state~~ defense force while the member is in the performance of military duty.

15 **SECTION 51.** 21.18 (title) and (1) (intro.) of the statutes are renumbered 321.10
16 (title) and (1) (intro.).

17 **SECTION 52.** 21.18 (1) (a) to (c) of the statutes are renumbered 321.10 (1) (a) to
18 (c).

19 **SECTION 53.** 21.18 (1) (d) of the statutes is renumbered 321.10 (1) (d) and
20 amended to read:

21 321.10 (1) (d) Two assistant adjutants general for army, ~~who may hold the~~
22 whose rank of may not exceed brigadier general.

23 **SECTION 54.** 21.18 (1) (e), (f), (g), (h), (i) and (j) of the statutes are renumbered
24 321.10 (1) (f), (g), (h), (i), (j) and (k) and amended to read:

1 321.10 (1) (f) An assistant adjutant general for air, ~~who may hold the whose~~
2 rank of may not exceed brigadier general.

3 (g) A chief surgeon for army, ~~who~~ whose rank may be a not exceed major general
4 officer.

5 (h) A chief surgeon for air, ~~who~~ whose rank may be a not exceed major general
6 officer.

7 (i) A staff judge advocate for army, ~~who~~ whose rank may be a not exceed major
8 general officer.

9 (j) A staff judge advocate for air, ~~who~~ whose rank may be a not exceed major
10 general officer.

11 (k) A state chaplain, either army or air, ~~who~~ whose rank may be a not exceed
12 major general officer.

13 **SECTION 55.** 21.18 (1) (k) of the statutes is renumbered 321.10 (1) (L).

14 **SECTION 56.** 21.18 (1m) of the statutes is renumbered 321.10 (3) and amended
15 to read:

16 321.10 (3) In the event ~~any of the a~~ deputy adjutants adjutant general, for army
17 or for air, ~~are~~ is appointed to a military position as a major general, the adjutant
18 general shall appoint, for any periods of absence of that deputy adjutant general due
19 to other military duties, an acting deputy adjutant general. The adjutant general
20 may appoint one of the assistant adjutants general as an acting deputy adjutant
21 general.

22 **SECTION 57.** 21.18 (2) of the statutes is renumbered 321.10 (4) and amended
23 to read:

24 321.10 (4) No person ~~shall~~ may be appointed ~~on~~ to the governor's military staff
25 who has not had previous state or U.S. military experience.

1 **SECTION 58.** 21.18 (3) of the statutes is renumbered 321.10 (5) and amended
2 to read:

3 321.10 (5) All staff officers appointed under sub. (1), except the adjutant
4 general whose tenure is governed by ss. 15.31 and 17.07 (5), shall hold their positions
5 ~~unless~~ until terminated ~~earlier~~ by resignation, disability, or death or for cause or
6 unless federal recognition of the officer's commission under 32 USC 323 is refused
7 or withdrawn. The governor shall remove an officer whose federal recognition is
8 refused or withdrawn, effective on the date of the loss of federal recognition.

9 **SECTION 59.** 21.18 (4) of the statutes is renumbered 321.10 (6).

10 **SECTION 60.** 21.18 (5) of the statutes is renumbered 321.10 (7) and amended
11 to read:

12 321.10 (7) The adjutant general shall appoint persons to fill vacancies in
13 positions in on the military staff of the governor under sub. (1). Vacancies on the
14 military staff of the governor shall be filled by appointment from officers actively
15 serving in the national guard, except as provided in s. 15.31. Interim vacancies shall
16 be filled by appointment by the adjutant general for the residue remainder of the
17 unexpired term.

18 **SECTION 61.** 21.19 (title) of the statutes is repealed.

19 **SECTION 62.** 21.19 (1) of the statutes is renumbered 321.04 (1) (a) and amended
20 to read:

21 321.04 (1) (a) ~~The adjutant general shall be~~ Be the military chief of staff to the
22 governor. ~~The adjutant general shall have the custody of all property, military~~
23 ~~records, correspondence and other documents relating to the national guard and any~~
24 ~~other military forces organized under the laws of this state. The adjutant general~~
25 ~~may appoint an assistant quartermaster general to issue and account for state~~

1 ~~property. The adjutant general shall be the medium of military correspondence with~~
2 ~~the governor and perform all other duties pertaining to the office or prescribed by~~
3 ~~law, including the preparation and submission to the governor of reports under s.~~
4 ~~15.04 (1) (d).~~

5 **SECTION 63.** 21.19 (1m) of the statutes is renumbered 321.04 (1) (i) and
6 amended to read:

7 321.04 (1) (i) ~~The adjutant general shall administer~~ Administer, with the
8 approval of the governor, state-federal cooperative funding agreements related to
9 the department.

10 **SECTION 64.** 21.19 (2) of the statutes is renumbered 321.03 (2) (intro.) and
11 amended to read:

12 321.03 (2) (intro.) The department of military affairs on behalf of the state may
13 rent do any of the following:

14 (a) Enter into an agreement to rent to appropriate organizations or individuals
15 state-owned lands, buildings, and facilities used by, acquired for, or erected for the
16 national guard when not required for use by the national guard. ~~Such A rental shall~~
17 agreement under this paragraph is not be effective unless in writing and approved
18 in writing by the governor and the adjutant general or a his or her designee in
19 writing.

20 **SECTION 65.** 21.19 (3) (a) of the statutes is renumbered 321.03 (2) (b) and
21 amended to read:

22 321.03 (2) (b) ~~The department of military affairs on behalf of the state, upon~~
23 Upon appraisal by the state chief engineer submitted to the governor in writing, ~~may~~
24 ~~sell and convey upon such terms as the department of military affairs may~~
25 ~~determine, and with the written approval of the governor in writing~~ sell and convey,

1 any state-owned property acquired or erected for state military purposes, which if
2 the property is no longer useful to the national guard.

3 **SECTION 66.** 21.19 (3) (b) of the statutes is repealed.

4 **SECTION 67.** 21.19 (4) of the statutes is renumbered 321.04 (1) (g) and amended
5 to read:

6 321.04 (1) (g) ~~The adjutant general shall be the auditor of~~ Audit all military
7 accounts, and all accounts or claims payable from the treasury of the state for
8 military purposes ~~shall be regularly audited by the adjutant general before payment.~~
9 ~~The adjutant general shall cause to be prepared and issued all necessary books and~~
10 ~~forms required by the adjutant general's office for the national guard. All of the books~~
11 ~~and forms shall be made to conform as nearly as practicable to those in use in the~~
12 ~~United States army.~~

13 **SECTION 68.** 21.19 (5) of the statutes is renumbered 321.10 (2) and amended
14 to read:

15 321.10 (2) In the absence or incapacity of the adjutant general, the senior
16 ranking deputy adjutant general for army or air shall have all the powers and duties
17 of the adjutant general.

18 **SECTION 69.** 21.19 (6) of the statutes is repealed.

19 **SECTION 70.** 21.19 (7) (a) (intro.) of the statutes is repealed.

20 **SECTION 71.** 21.19 (7) (a) 1. of the statutes is renumbered 321.04 (1) (f) and
21 amended to read:

22 321.04 (1) (f) ~~Have charge of~~ control over all the military property ~~of the state~~
23 ~~and shall~~ military records and carefully preserve, repair, and account for the military
24 property and records.

1 **SECTION 72.** 21.19 (7) (a) 2. of the statutes is renumbered 321.04 (1) (h) and
2 amended to read:

3 321.04 (1) (h) ~~Keep in such manner as the governor directs, and subject to the~~
4 ~~governor's inspection,~~ an account of all moneys received and expended by the
5 department.

6 **SECTION 73.** 21.19 (7) (a) 3. of the statutes is renumbered 321.04 (1) (q) and
7 amended to read:

8 321.04 (1) (q) Perform the customary duties of the his or her office, ~~and of the~~
9 ~~office of chief of all logistical services, and have the custody of all records, returns and~~
10 ~~papers pertaining to those offices.~~

11 **SECTION 74.** 21.19 (7) (b) of the statutes is renumbered 321.04 (1) (k) and
12 amended to read:

13 321.04 (1) (k) The Transport or contract for the transportation of all troops,
14 arms, accoutrements, stores national guard members and other military property
15 and the preparation for encampments shall be contracted for by the adjutant general
16 under direction of the governor.

17 **SECTION 75.** 21.19 (8) of the statutes is renumbered 321.04 (1) (L) and amended
18 to read:

19 321.04 (1) (L) The adjutant general or a designee shall issue Provide or contract
20 for the provision of all necessary supplies to military property, lodging, and meals for
21 members and units of the national guard and may contract for the purchase and
22 transportation of such supplies, subject to s. 16.71 (1).

23 **SECTION 76.** 21.19 (9) of the statutes is renumbered 321.04 (2) (c) and amended
24 to read:

1 321.04 (2) (c) ~~When any military property belonging to the state as owner or~~
2 ~~bailee is wrongfully held by another person, the adjutant general may bring an action~~
3 ~~in the name of the state to recover possession of the same property or the money value~~
4 ~~thereof of the property.~~

5 **SECTION 77.** 21.19 (10) of the statutes is renumbered 321.04 (2) (d) and
6 amended to read:

7 321.04 (2) (d) ~~The adjutant general may, upon~~ Upon receipt of a meritorious
8 ~~requests~~ request for a state service ~~flags for public use~~ flag and within the limits of
9 the appropriation made under s. 20.465 (1) (e), furnish ~~such flags~~ a flag without
10 charge to the ~~persons or organizations requesting them~~ person who requested it.

11 **SECTION 78.** 21.19 (11) of the statutes is renumbered 321.04 (1) (d) and
12 amended to read:

13 321.04 (1) (d) ~~The adjutant general shall provide such~~ Provide necessary
14 ~~medical supplies and services as are necessary to the national guard during periods~~
15 of state active duty not otherwise provided under this chapter and ch. 102, to be
16 charged to the appropriation under s. 20.465 (1) (c).

17 **SECTION 79.** 21.19 (12) of the statutes is renumbered 321.04 (1) (e) and
18 amended to read:

19 321.04 (1) (e) ~~The adjutant general shall provide from the appropriation under~~
20 ~~s. 20.465 (1) (e)~~ Provide a United States flag or state flag to the next of kin of each
21 deceased member of the national guard who dies ~~as a result of~~ during state service
22 ~~under s. 21.11 active duty, to be charged to the appropriation under s. 20.465 (1) (c).~~

23 **SECTION 80.** 21.19 (13) of the statutes is renumbered 321.04 (1) (n) and
24 amended to read:

1 321.04 (1) (n) ~~The adjutant general shall cooperate~~ Cooperate with the federal
2 government in the operation and maintenance of distance learning centers for the
3 use of current and former members of the national guard and the U.S. armed forces.
4 The adjutant general may charge rent for the use of a center by a nonmilitary or
5 nonfederal person. All moneys received under this ~~subsection~~ paragraph shall be
6 credited to the appropriation account under s. 20.465 (1) (i).

7 **SECTION 81.** 21.19 (14) of the statutes is renumbered 321.04 (1) (o) and
8 amended to read:

9 321.04 (1) (o) ~~The adjutant general shall provide~~ Provide the department of
10 veterans affairs information on all necessary military points of contact and general
11 deployment information for activated and deployed members of the national guard.

12 **SECTION 82.** 21.20 of the statutes is repealed.

13 **SECTION 83.** 21.21 of the statutes is repealed.

14 **SECTION 84.** 21.25 of the statutes is repealed.

15 **SECTION 85.** 21.26 (title) of the statutes is repealed.

16 **SECTION 86.** 21.26 (1) and (2) (intro.) of the statutes are consolidated,
17 renumbered 321.03 (1) (c) (intro.) and amended to read:

18 321.03 (1) (c) (intro.) ~~The department of military affairs shall administer~~
19 Administer the Youth Challenge Academy program for disadvantaged youth under
20 32 USC 509. ~~(2)~~ The department shall determine eligibility criteria for the
21 Challenge Academy consistent with federal law. Annually, the department of
22 ~~military affairs~~ shall do all of the following:

23 **SECTION 87.** 21.26 (2) (a) of the statutes is renumbered 321.03 (1) (c) 1. and
24 amended to read:

1 321.03 (1) (c) 1. Calculate 40% the state share of the average cost per pupil
2 attending the ~~Youth~~ Challenge Academy program and report this information to the
3 department of public instruction.

4 **SECTION 88.** 21.26 (2) (b) of the statutes is renumbered 321.03 (1) (c) 2.

5 **SECTION 89.** 21.28 (title) of the statutes is renumbered 321.11 (title).

6 **SECTION 90.** 21.28 (1), (2) and (3) of the statutes are renumbered 321.11 (1), (2)
7 and (3) and amended to read:

8 321.11 (1) The adjutant general shall recommend a candidate for appointment
9 as the ~~United States~~ U.S. property and fiscal officer for the national guard, subject
10 to the concurrence of the governor, from federally commissioned officers actively
11 serving in the national guard. The candidate shall be nominated by the governor,
12 subject to the concurrence of the U.S. secretary of the army, if the nominee is serving
13 in the army national guard, or the U.S. secretary of the air force, if the nominee is
14 serving in the air national guard.

15 (2) The officer nominated under sub. (1) shall assume the duties of a ~~United~~
16 ~~States~~ U.S. property and fiscal officer under 32 USC 708, when properly ordered to
17 active duty by the appropriate U.S. secretary, on the date specified in the order. The
18 officer shall hold his or her position unless terminated earlier by resignation,
19 disability or for cause and unless federal recognition of the officer's commission
20 under ~~32 USC 323~~ 10 USC 14902, 14903, or 14905 is refused or withdrawn.

21 (3) Any action by the governor to remove the officer appointed under sub. (1)
22 (2) for cause shall be governed by the federal laws and military regulations governing
23 removal of an officer for cause and shall be subject to review by the chief of the
24 national guard bureau and by the U.S. secretary of the army, if the officer is

1 commissioned by the army national guard, or by the U.S. secretary of the air force,
2 if the officer is commissioned by the air national guard.

3 **SECTION 91.** 21.30 (title) of the statutes is renumbered 321.12 (title) and
4 amended to read:

5 **321.12 (title) Chief surgeons; powers and duties.**

6 **SECTION 92.** 21.30 of the statutes is renumbered 321.12 (1) and amended to
7 read:

8 321.12 (1) The chief surgeons for the army and air national guard shall, under
9 direction of the adjutant general, have general supervision of the medical units of the
10 national guard and, if organized, the state defense force ~~when organized~~. The chief
11 surgeons shall make recommendations concerning the procurement of medical
12 supplies and services for state active duty operations, ~~for~~ the procurement and
13 training of medical personnel, and ~~for~~ the publication of national guard directives on
14 medical subjects. The chief surgeons shall submit an annual report of the affairs and
15 expenses of their departments to the adjutant general.

16 **SECTION 93.** 21.32 (title) of the statutes is repealed.

17 **SECTION 94.** 21.32 of the statutes is renumbered 321.12 (2) and amended to
18 read:

19 321.12 (2) The chief surgeons for the army and the air national guard shall
20 provide for ~~such~~ any physical examinations and inoculations of officers, enlistees,
21 and applicants for enlistment in the national guard, ~~as may be~~ that are prescribed
22 by U.S. department of defense and national guard regulations.

23 **SECTION 95.** 21.33 (title) of the statutes is repealed.

24 **SECTION 96.** 21.33 of the statutes is renumbered 321.04 (1) (c) and amended to
25 read:

1 321.04 (1) (c) ~~The quartermaster general acting as paymaster under~~ Under
2 orders from the governor, may draw from the state treasury the money necessary for
3 paying troops in camp or national guard members on state active service, and shall
4 furnish such security for the same as the secretary of administration may direct. The
5 amount due on account of the field, staff, or other officers, noncommissioned staff and
6 band, company, or enlistees, not herein enumerated, if any, shall be paid to the person
7 to whom the same shall be due, on the properly signed and certified payrolls duty.

8 **SECTION 97.** 21.35 of the statutes is renumbered 321.37 and amended to read:

9 **321.37 Federal laws and regulations; no No discrimination.** The
10 organization, armament, equipment, and discipline of the national guard shall be
11 that prescribed by federal laws or regulations; and the governor may by order perfect
12 such organization, armament, equipment, and discipline, at any time, so as to
13 comply with such laws and regulations insofar as they are consistent with the
14 Wisconsin code of military justice. Notwithstanding any rule or regulation
15 prescribed by the federal government or any officer or department thereof, no No
16 person, otherwise qualified, may be denied membership in the national guard or
17 state defense force because of sex, color, race, creed, or sexual orientation and no
18 member of the national guard or state defense force may be segregated within the
19 national guard or state defense force on the basis of sex, color, race, creed, or sexual
20 orientation. Nothing in this section prohibits separate facilities for persons of
21 different sexes with regard to dormitory accommodations, public toilets, showers,
22 saunas, and dressing rooms.

23 **SECTION 98.** 21.36 (title) of the statutes is repealed.

24 **SECTION 99.** 21.36 (1) of the statutes is renumbered 321.36 and amended to
25 read: